

EXHIBIT 11

NICHOLAS G. FLUEHR Non-Confidential
BARTOLETTI -against- CITIGROUP

September 28, 2012
37-40

<p style="text-align: right;">Page 37</p> <p>1 N. G. FLUEHR</p> <p>2 Ramirez, correct?</p> <p>3 A. Correct.</p> <p>4 Q. And Dan and Ted were two</p> <p>5 executives at Ramirez?</p> <p>6 A. Correct.</p> <p>7 Q. And you say in the first line per</p> <p>8 your request the following is a brief overview</p> <p>9 of our transition plan.</p> <p>10 What did that mean?</p> <p>11 A. Our transition plan to Ramirez</p> <p>12 were we to be employed by Ramirez.</p> <p>13 Q. This letter has a third person, it</p> <p>14 is Nick Fluehr to Amy Bartoletti and there is</p> <p>15 a third person Aulii Limitaco. I'll spell</p> <p>16 that A-U-L-I-I L-I-M-T-I-A-C-O.</p> <p>17 Who is that third person?</p> <p>18 A. Another person in the industry</p> <p>19 that I worked with at Bank of America.</p> <p>20 Q. Also, was that person also let go</p> <p>21 in February?</p> <p>22 A. She was.</p> <p>23 Q. If you would look at this first</p> <p>24 paragraph, the third line you say:</p> <p>25 "While the municipal market and</p>	<p style="text-align: right;">Page 39</p> <p>1 N. G. FLUEHR</p> <p>2 A. Correct.</p> <p>3 Q. What happened in 2009 to the</p> <p>4 volumes in the housing market?</p> <p>5 A. The government came in with a</p> <p>6 program that allowed housing issuers to revamp</p> <p>7 their programs. And so there was actually a</p> <p>8 decent amount of volume in 2009 and 2010.</p> <p>9 Q. From a public finance housing</p> <p>10 group perspective, would you say the most</p> <p>11 severe period of time was June 2008 to</p> <p>12 December 2008?</p> <p>13 MR. MINTZER: Objection to the</p> <p>14 form. Severe?</p> <p>15 A. I am sorry, just ask the question</p> <p>16 one more time.</p> <p>17 Q. With regard to the public finance</p> <p>18 housing market and the volume of business</p> <p>19 being done in that market, would you say the</p> <p>20 most severe downturn in business was between</p> <p>21 June of 2008 and December of 2008?</p> <p>22 A. Yes.</p> <p>23 Q. How was the housing market and</p> <p>24 public finance doing before you were informed</p> <p>25 of your layoff from Citi?</p>
<p style="text-align: right;">Page 38</p> <p>1 N. G. FLUEHR</p> <p>2 specifically housing market remained</p> <p>3 dislocated."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. What did that mean?</p> <p>7 A. Financial markets were in disarray</p> <p>8 in that period in 2009 and housing issuance</p> <p>9 had declined markedly from prior years.</p> <p>10 Q. When did the housing market start</p> <p>11 its decline? When I say "housing market," I</p> <p>12 am referring to the public finance housing</p> <p>13 market, the work that you were doing.</p> <p>14 A. 2008 I would say, early 2008.</p> <p>15 Q. How long did it decline for?</p> <p>16 A. Are we talking volume, are you</p> <p>17 talking interest rates?</p> <p>18 Q. Volume.</p> <p>19 A. What's the nature of your</p> <p>20 question?</p> <p>21 Q. Volume.</p> <p>22 A. Volume declining significantly in</p> <p>23 the back half of 2008 I would say.</p> <p>24 Q. Starting from mid-2008 to the end</p> <p>25 of 2008, volume declined it significantly?</p>	<p style="text-align: right;">Page 40</p> <p>1 N. G. FLUEHR</p> <p>2 A. The sub-prime crisis, if you will,</p> <p>3 was having a significant effect on the broader</p> <p>4 mortgage markets, which ripped into the</p> <p>5 capital markets in a variety of ways. So it</p> <p>6 certainly was an extremely tumultuous period in</p> <p>7 every financial market.</p> <p>8 Q. You mentioned that you experienced</p> <p>9 during this time period a layoff from Citi and</p> <p>10 a layoff from Bank of America, correct?</p> <p>11 A. When you say "this period" my</p> <p>12 layoff from Bank of America was in February</p> <p>13 of 2009, so it wouldn't be in that six-month</p> <p>14 period.</p> <p>15 Q. Let me just focus on 2008. Were</p> <p>16 other firms in the housing sector laying</p> <p>17 people off?</p> <p>18 A. Firms were exploding. Bear,</p> <p>19 Stearns went under, Lehman Brothers went</p> <p>20 upped. There were layoffs throughout all of</p> <p>21 Wall Street. To say other firms were laying</p> <p>22 off housing professionals, they were laying</p> <p>23 off housing professionals, GO professionals.</p> <p>24 There was a significant amount of layoffs in</p> <p>25 every sector of the municipal business.</p>

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<p style="text-align: right;">Page 41</p> <p>1 N. G. FLUEHR</p> <p>2 Q. Your point 2 in this e-mail talks</p> <p>3 a little about student loans. So the second</p> <p>4 line under point 2 it reads "given Nick and</p> <p>5 Amy's past involvement with many student loan</p> <p>6 issuers;" do you see that?</p> <p>7 A. I do.</p> <p>8 Q. And then down below you refer to</p> <p>9 failed auction bonds and auction rate</p> <p>10 securities.</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. What was happening to the student</p> <p>14 loan business in 2008?</p> <p>15 A. The auction market essentially</p> <p>16 imploded in February of 2008, such that it</p> <p>17 virtually every auction bond program went to</p> <p>18 what we called a fail rate, which was a</p> <p>19 formulaic rate that was established in the</p> <p>20 documents.</p> <p>21 Q. Was the result of that the fact</p> <p>22 that they went with a fail rate that no one</p> <p>23 would buy the bonds?</p> <p>24 A. There was no bid for the bonds,</p> <p>25 correct.</p>	<p style="text-align: right;">Page 43</p> <p>1 N. G. FLUEHR</p> <p>2 A. I don't know that for a fact, but</p> <p>3 if I would -- I think that would be a very</p> <p>4 reasonable guess.</p> <p>5 Q. Let me focus it on Citibank. You</p> <p>6 did student loan work at Citi before you were</p> <p>7 let go, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And in 2007 was there student loan</p> <p>10 work being done within the public finance</p> <p>11 group at Citi?</p> <p>12 A. There was.</p> <p>13 Q. In 2008 up until the time that you</p> <p>14 were let go, was there new student loan</p> <p>15 business being done?</p> <p>16 A. There was not new underwritings.</p> <p>17 To say that there wasn't student loan work,</p> <p>18 there was tons of work in again trying to</p> <p>19 swage client concerns and work out. Our desk</p> <p>20 was extremely unhappy to have a massive option</p> <p>21 rate portfolio that was in fail mode. So we</p> <p>22 were charged with figuring out solutions by</p> <p>23 our short-term desk in terms of we need out of</p> <p>24 these option bonds, figure it out.</p> <p>25 Q. Who within the public finance</p>
<p style="text-align: right;">Page 42</p> <p>1 N. G. FLUEHR</p> <p>2 Q. What happened to the volume of</p> <p>3 student loan business after February of 2008?</p> <p>4 A. It essentially collapsed.</p> <p>5 Q. Was there any business to be done</p> <p>6 in public finance student loans after February</p> <p>7 of 2008 through the end of 2008?</p> <p>8 A. There was a dire need for</p> <p>9 restructurings. The market was so dislocated</p> <p>10 that it was difficult, if not impossible, to</p> <p>11 effect those restructurings. There has</p> <p>12 actually been a tremendous volume of student</p> <p>13 issuances that have been done to structure</p> <p>14 those failed options in the ensuing period.</p> <p>15 Q. Focusing on 2008, I understand</p> <p>16 that there was a need for restructurings. Was</p> <p>17 there any new business being written in</p> <p>18 student loans in 2008?</p> <p>19 A. There was a significant dialogue</p> <p>20 with many of the clients who were very worried</p> <p>21 about how they might restructure and there</p> <p>22 were significant efforts to work on such</p> <p>23 restructurings.</p> <p>24 Q. Was the volume of student loan</p> <p>25 business in 2008 less than it was in 2007?</p>	<p style="text-align: right;">Page 44</p> <p>1 N. G. FLUEHR</p> <p>2 group that you were managing up until June</p> <p>3 of 2008, who did student loan work?</p> <p>4 A. I worked with Amy, I worked with</p> <p>5 Chia, to a lesser extent Ray High. Two people</p> <p>6 that didn't do much work were Ping Hsieh and</p> <p>7 Mike Koessel.</p> <p>8 Q. You said two people who didn't do</p> <p>9 much work, did Ping Hsieh do any student loan</p> <p>10 work?</p> <p>11 A. He would market student loan</p> <p>12 programs to -- Ping had a very good</p> <p>13 relationship in Oregon, which we did the</p> <p>14 housing account in Oregon together. We were</p> <p>15 marketing a student loan program to the</p> <p>16 treasurer in Oregon, so she probably helped me</p> <p>17 in that respect. But for the most part, she</p> <p>18 had no student loan experience, other than</p> <p>19 sort of a very broad based rushed concept.</p> <p>20 Q. How about Mike Koessel, did he do</p> <p>21 any student loan work?</p> <p>22 A. Not that I recall. Again, if we</p> <p>23 were to, you know -- I am not saying that he</p> <p>24 didn't help NFA if we were marketing to a</p> <p>25 state where he happened to be in that state</p>



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1 N. G. FLUEHR
2 and we were trying to make inroads in the
3 student loan account. I may well have brought
4 him to a meeting where we were pitching
5 student loan business. But he was not a
6 student loan banker per se.
7 Q. So within public finance, if I
8 understand you correctly, the four people who
9 spent a significant, for lack of a better
10 word, part of their time on student were
11 yourself, Ms. Bartoletti and Ms. Siu and
12 Ms. Ray High; is that right?
13 A. It is not really accurate in that
14 the student loans at Citigroup was really run
15 out of our asset backed finance group. So we
16 in public finance had responsibility for a
17 very small and narrow segment of the student
18 loan market, which were really legacy accounts
19 that I had relationships with. So if there
20 were states that weren't being covered,
21 certainly we had the latitude to go after
22 those.
23 But for the most part, it was
24 Alaska and Montana were the two key focus
25 areas in the student loan world. And for the

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1 N. G. FLUEHR
2 most part, the rest of the nation was covered
3 by the asset backed finance department.
4 Q. When you moved into the public
5 finance base, you took Alaska and Montana with
6 you at that time?
7 A. Correct.
8 Q. In 2007, if you look at the
9 housing and student loan group, was it called
10 housing group or student loan group at
11 Citibank?
12 A. Depends on what client we were
13 talking to.
14 Q. I am just going to refer to it as
15 the housing group, is that okay?
16 A. Sure. Yes.
17 Q. In 2007, when you look at the
18 housing group's business, how much of it do
19 you think was student loan business?
20 A. The broker-dealer business, which
21 was again I can't do a marketing business
22 whereby we reset rates on a periodic basis.
23 That was very lucrative business in that at
24 one point it was charged with 25 basis points
25 on student loan issuers.

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1 N. G. FLUEHR
2 So there was a very lucrative
3 re-marketing book from the student loan side
4 day one when we walked in the door. That was
5 also supplemented with the re-marketing books
6 for housing issuers.
7 If I were to guess, and I would
8 say that probably one-eighth of our revenue
9 was student loan related. There was also
10 revenue credit for non-housing deals. The way
11 the public finance worked is there were
12 frequent double counting on other issuers.
13 So if I had a strong relationship
14 in Alaska where I would work with somebody in
15 our Seattle office and we produced a deal for
16 the railroad, even though it wasn't a housing
17 issuer, my name would be put on that revenue
18 as well as the person in Seattle and that would
19 show up as "housing revenues."
20 So there was a decent subset of
21 non-housing deals that were part of that as
22 well.
23 Q. Within the housing group in 2007,
24 was everybody working on some non-housing
25 deals?

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1 N. G. FLUEHR
2 A. No.
3 Q. You said that one-eighth. I
4 understand it is your estimate of the revenue
5 in 2007 of student loan business; is that
6 right?
7 A. That's my estimate.
8 Q. How much of your time were you
9 spending on student loan business in 2007?
10 A. I would say maybe a tenth of my
11 time, if that. Maybe less.
12 Q. How about Ms. Bartoletti, how much
13 time was she spending on student loan business
14 in 2007?
15 A. I would guess about the same that
16 I was.
17 Q. Did the amount of time that you
18 and Ms. Bartoletti spent on student loan
19 business decrease as you went into 2008?
20 A. Given the dislocation and the
21 option market, we probably spent more time
22 trying to figure out solutions for our
23 clients.
24 Q. How much of your time would you
25 estimate you spent on student loans in 2008 up

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<p style="text-align: right;">Page 49</p> <p>1 N. G. FLUEHR</p> <p>2 until the time you left Citi?</p> <p>3 A. A sixth of my time. It is really</p> <p>4 --</p> <p>5 Q. How about Ms. Bartoletti?</p> <p>6 A. About the same.</p> <p>7 Q. You said that not everybody in the</p> <p>8 group participated in the non-housing</p> <p>9 business, nonstudent loan business of the</p> <p>10 public finance group.</p> <p>11 Who did not participate in those</p> <p>12 other businesses?</p> <p>13 A. Because I was the point person who</p> <p>14 was out soliciting business for the most part</p> <p>15 in the group, it was I would say almost</p> <p>16 exclusively myself that developed these other</p> <p>17 deals. And the expertise to process those</p> <p>18 deals was largely found in other groups, be it</p> <p>19 water deals, power deals, tobacco deals.</p> <p>20 So the fact that if I knew that</p> <p>21 Idaho was going to do a Garvey transportation</p> <p>22 issue, I had the relationship with the Idaho</p> <p>23 folks and would use that and leverage that to</p> <p>24 work with say our Idaho bankers.</p> <p>25 So my junior staff for the most</p>	<p style="text-align: right;">Page 51</p> <p>1 N. G. FLUEHR</p> <p>2 Street firms at that point in time, it has</p> <p>3 since changed, but it was 25 basis points in</p> <p>4 the beginning of the option industry. It went</p> <p>5 down to 15 basis points. So it is -- is it</p> <p>6 public, no. Is it widely known? Yes.</p> <p>7 Q. Is it public how much the volume</p> <p>8 of auction rate securities Montana is doing</p> <p>9 with Citigroup?</p> <p>10 A. It is disclosed in their financial</p> <p>11 statements how many option rate securities</p> <p>12 Montana had, yes. And typically in the</p> <p>13 financial statements, I think it does disclose</p> <p>14 who their re-marketing agents or</p> <p>15 broker-dealers are.</p> <p>16 Q. So you think that is disclosed in</p> <p>17 public document, who is working with them on</p> <p>18 their option rate securities and how much each</p> <p>19 firm has in business?</p> <p>20 A. I couldn't say for sure, no.</p> <p>21 Q. How about the rate, for example,</p> <p>22 you said maybe at this point it is about</p> <p>23 15 basis points.</p> <p>24 A. It is no longer 15 basis points.</p> <p>25 Q. At the time that you wrote this</p>
<p style="text-align: right;">Page 50</p> <p>1 N. G. FLUEHR</p> <p>2 part were focused on the bread and butter of</p> <p>3 housing, student loan business. It was</p> <p>4 largely bringing the deal in the door that we</p> <p>5 got, it was my role.</p> <p>6 Q. Could you look at Exhibit 3, it is</p> <p>7 the e-mail again to Ted Sobel and Dan Keating.</p> <p>8 On point two, the fourth line down your e-mail</p> <p>9 states that Montana presently pays Citigroup</p> <p>10 1.5 million as broker-dealer for approximately</p> <p>11 1 billion of ARS.</p> <p>12 Where did you get that information</p> <p>13 from?</p> <p>14 A. Montana is an account that I</p> <p>15 worked with for -- since 1984. I understand</p> <p>16 their balance sheet very well. I know exactly</p> <p>17 how many option rate bonds they have</p> <p>18 outstanding and I knew exactly how much we got</p> <p>19 paid on it.</p> <p>20 Q. Is that information public?</p> <p>21 A. It is.</p> <p>22 Q. So it was public how much Montana</p> <p>23 was paying to Citigroup as broker-dealer?</p> <p>24 A. Is it -- it was a uniform fee</p> <p>25 across all of Wall Street. Basically all Wall</p>	<p style="text-align: right;">Page 52</p> <p>1 N. G. FLUEHR</p> <p>2 e-mail, was that information public, would</p> <p>3 that be in their financial statements, for</p> <p>4 example?</p> <p>5 A. No.</p> <p>6 Q. Was it public anywhere else?</p> <p>7 A. I don't know.</p> <p>8 Q. You said that you joined Ramirez</p> <p>9 before Ms. Bartoletti, correct?</p> <p>10 A. Correct.</p> <p>11 Q. When did you get the offer to join</p> <p>12 Ramirez?</p> <p>13 A. Early May of 2009.</p> <p>14 (Discussion off the record.)</p> <p>15 Q. Do you know why you got an offer</p> <p>16 from Ramirez before Ms. Bartoletti did?</p> <p>17 A. Yes.</p> <p>18 Q. Why is that?</p> <p>19 A. I joined Ramirez with two other</p> <p>20 individuals and we presented essentially a</p> <p>21 riskless business proposition to Ramirez.</p> <p>22 Q. Dealing with student loans?</p> <p>23 A. I joined with two other student</p> <p>24 loan bankers.</p> <p>25 Q. Do you know when Ms. Bartoletti</p>

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<p style="text-align: right;">Page 73</p> <p>1 N. G. FLUEHR</p> <p>2 A. Approximately two analysts.</p> <p>3 Q. How about associates?</p> <p>4 A. Again, approximately two. I mean,</p> <p>5 at some points we may have had three analysts</p> <p>6 and one associate, and at another point we may</p> <p>7 have had two and two. It was generally four</p> <p>8 junior staff, being analysts or associates.</p> <p>9 Q. You mentioned in your affidavit,</p> <p>10 and we're obviously talk about that today, but</p> <p>11 you mentioned something that you referred to</p> <p>12 as a public finance operating committee.</p> <p>13 Do you recall that?</p> <p>14 A. I do.</p> <p>15 Q. What was that?</p> <p>16 A. It was a committee that Frank Chin</p> <p>17 organized of the group heads.</p> <p>18 Q. Who was on the committee? Well,</p> <p>19 let me back up a second. When did he organize</p> <p>20 that?</p> <p>21 A. To my knowledge, that existed from</p> <p>22 -- predated my joining back part of public</p> <p>23 finance in say 98'ish.</p> <p>24 Q. The term operating committee, is</p> <p>25 that a term -- it appeared in your affidavit,</p>	<p style="text-align: right;">Page 75</p> <p>1 N. G. FLUEHR</p> <p>2 summer internship program?</p> <p>3 A. Yes, that I recall.</p> <p>4 Q. That was an internship program for</p> <p>5 analysts or to be analysts?</p> <p>6 A. Yeah, we had an internship program</p> <p>7 with the New York State housing finance agency</p> <p>8 where people would join and they worked for</p> <p>9 six months at our firm and then six months at</p> <p>10 New York HFA.</p> <p>11 Q. Chia Siu was one of the interns</p> <p>12 who participated in that program, correct?</p> <p>13 A. Yes, as was former employee Lee</p> <p>14 Chin that we hired on a permanent basis, like</p> <p>15 Chia.</p> <p>16 Q. Do you remember Britney Sharpton</p> <p>17 as an intern?</p> <p>18 A. Britney never really reported to</p> <p>19 me. So no, I don't know her very well.</p> <p>20 Q. Do you recall that she spent a</p> <p>21 part of her internship with your group?</p> <p>22 A. I understood that, but I think</p> <p>23 that was, you know -- I left in June of 2008,</p> <p>24 I believe she was an intern in 2008.</p> <p>25 Q. So before you left you don't</p>
<p style="text-align: right;">Page 74</p> <p>1 N. G. FLUEHR</p> <p>2 is that your term for it or was that what it</p> <p>3 was referred to by others?</p> <p>4 A. That's what it was referred to by</p> <p>5 others.</p> <p>6 Q. And who were the members of that</p> <p>7 operating committee?</p> <p>8 A. The heads of the various groups,</p> <p>9 as well as Frank Chin.</p> <p>10 Q. Every group within public finance</p> <p>11 had a group head; is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. And every group head was</p> <p>14 considered a member of that operating</p> <p>15 committee?</p> <p>16 A. Correct.</p> <p>17 Q. What did the operating committee</p> <p>18 do?</p> <p>19 A. Basically planned our strategy for</p> <p>20 the department in terms of new business and</p> <p>21 hiring, etc..</p> <p>22 Q. When Mr. Toth was a co-head with</p> <p>23 you, was he part of that committee?</p> <p>24 A. He was.</p> <p>25 Q. When you were at Citi, was there a</p>	<p style="text-align: right;">Page 76</p> <p>1 N. G. FLUEHR</p> <p>2 recall her being a summer intern?</p> <p>3 A. Well, no, I -- so she was a summer</p> <p>4 intern in 2007?</p> <p>5 Q. I think it was 2006, but I am</p> <p>6 asking your recollection. So if you don't</p> <p>7 recall --</p> <p>8 A. Yea, I don't recall actively</p> <p>9 working with Britney.</p> <p>10 Q. Do you recall getting any feedback</p> <p>11 on her while she was a summer intern?</p> <p>12 A. I recall hearing feedback.</p> <p>13 Q. And do you recall getting feedback</p> <p>14 from Ms. Bartoletti about her, about</p> <p>15 Ms. Sharpton?</p> <p>16 A. I do.</p> <p>17 Q. That was negative feedback,</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. Ms. Bartoletti didn't want</p> <p>21 Ms. Sharpton to join the housing group, did</p> <p>22 she?</p> <p>23 A. Correct.</p> <p>24 Q. Why?</p> <p>25 A. She didn't feel that she would be</p>

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<p style="text-align: right;">Page 77</p> <p>1 N. G. FLUEHR</p> <p>2 additive to our group.</p> <p>3 Q. Was she critical of her skill set?</p> <p>4 A. That was the implication.</p> <p>5 Q. Did others have a similar view</p> <p>6 that they communicated to you about Britney</p> <p>7 Sharpton?</p> <p>8 A. I honestly only recall Amy's</p> <p>9 feedback. It may well be that other people</p> <p>10 gave me feedback.</p> <p>11 Q. Do you recall anything specific</p> <p>12 about what Ms. Bartoletti said about</p> <p>13 Ms. Sharpton?</p> <p>14 A. No.</p> <p>15 Q. During your time as either co-head</p> <p>16 or head of the housing group, who did you</p> <p>17 hire?</p> <p>18 A. Well, I hired Ping Hsieh is my</p> <p>19 recollection, I hired Corey Hoeppner, I hired</p> <p>20 Geoff Proulx, and, you know, virtually every</p> <p>21 analyst that was part of the junior staff.</p> <p>22 Q. During your entire tenure in the</p> <p>23 housing group, so not only when you were head</p> <p>24 but even before then, did you have a role in</p> <p>25 hiring Amy Bartoletti?</p>	<p style="text-align: right;">Page 79</p> <p>1 N. G. FLUEHR</p> <p>2 could just tell me what you thought of them.</p> <p>3 I will go one by one. And we will take the</p> <p>4 last one, since it seems to be very limited.</p> <p>5 Michael Murad?</p> <p>6 A. I really have no basis to say.</p> <p>7 Q. You can't judge whether he was a</p> <p>8 good performer or bad performer?</p> <p>9 A. I can't.</p> <p>10 Q. How about Ray High, you spoke a</p> <p>11 little about him. What was Mr. High's</p> <p>12 strengths?</p> <p>13 A. Personable, honest, integrity.</p> <p>14 Q. Any other strengths that you can</p> <p>15 think of?</p> <p>16 A. Dependable, good to get along</p> <p>17 with, friendly.</p> <p>18 MR. MINTZER: I think you covered</p> <p>19 that.</p> <p>20 Q. Do you recall within the public</p> <p>21 finance group you used to give people A, B or</p> <p>22 C ratings?</p> <p>23 A. I recall doing reviews. I</p> <p>24 honestly don't recall. I mean, over the years</p> <p>25 we've had 1 through 5, we've had every</p>
<p style="text-align: right;">Page 78</p> <p>1 N. G. FLUEHR</p> <p>2 A. As I recall, yes.</p> <p>3 Q. How about Mike Koessel?</p> <p>4 A. Yes.</p> <p>5 Q. Where did Mr. Koessel work before</p> <p>6 joining Citi?</p> <p>7 A. Merrill Lynch.</p> <p>8 Q. Do you recall what he was doing at</p> <p>9 Merrill?</p> <p>10 A. Housing.</p> <p>11 Q. Do you recall how long he had been</p> <p>12 in the housing group at Merrill?</p> <p>13 A. No.</p> <p>14 Q. Did you play a role in hiring Ray</p> <p>15 High?</p> <p>16 A. Probably.</p> <p>17 Q. Ms. Chia Siu I assume?</p> <p>18 A. Yes.</p> <p>19 Q. And how about Michael Murad?</p> <p>20 A. I believe I interviewed him, but</p> <p>21 again because of the overlap, I had very</p> <p>22 little exposure with him or overlap. I think</p> <p>23 he started the summer I left.</p> <p>24 Q. I am going to ask you about the</p> <p>25 individuals and their performance and if you</p>	<p style="text-align: right;">Page 80</p> <p>1 N. G. FLUEHR</p> <p>2 permutation of reviews.</p> <p>3 Q. Let me see if I can clarify a</p> <p>4 little bit, because the ABC's I wasn't</p> <p>5 referring to the evaluation process.</p> <p>6 Do you recall ever being asked by</p> <p>7 Frank Chin to rate the employees in your</p> <p>8 group, A, B or C. A being the strongest and C</p> <p>9 being the weakest.</p> <p>10 A. I honestly don't recall that.</p> <p>11 Q. How about on performance</p> <p>12 evaluations, do you know what Mr. High's</p> <p>13 performance evaluation rating was for 2007?</p> <p>14 A. I don't recall. I mean, I could</p> <p>15 guess.</p> <p>16 MR. MINTZER: Don't guess.</p> <p>17 Q. Don't guess.</p> <p>18 Would it surprise you if he had</p> <p>19 the highest rating of one, he was rated a one,</p> <p>20 meaning exceptional performance?</p> <p>21 A. That would not surprise me.</p> <p>22 Q. I think it was your recollection</p> <p>23 that he was hired as an associate.</p> <p>24 A. That was my recollection.</p> <p>25 Q. Ping Hsieh, I am shifting to the</p>

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<p style="text-align: right;">Page 85</p> <p>1 N. G. FLUEHR</p> <p>2 Q. Did you think he was a good</p> <p>3 speaker?</p> <p>4 A. Yeah.</p> <p>5 Q. Do you know how he was perceived</p> <p>6 in the industry?</p> <p>7 MR. MINTZER: Object to the form.</p> <p>8 You can answer.</p> <p>9 A. I certainly -- do I know? Do I</p> <p>10 know how he was perceived in the industry?</p> <p>11 Q. Do you know how he was perceived</p> <p>12 in the industry?</p> <p>13 A. You get -- I got as a manager, you</p> <p>14 got feedback competitors, from clients, from a</p> <p>15 variety of sources. So yes, I had a broad</p> <p>16 range of opinions about virtually every person</p> <p>17 that worked for me in my group.</p> <p>18 Q. And based on that feedback, what</p> <p>19 was your sense of the perception of</p> <p>20 Mr. Koessel?</p> <p>21 A. Mike was very smart and</p> <p>22 methodical.</p> <p>23 Q. When working for you in the</p> <p>24 housing group at Citi, what were Mr. Koessel's</p> <p>25 strengths?</p>	<p style="text-align: right;">Page 87</p> <p>1 N. G. FLUEHR</p> <p>2 weaknesses?</p> <p>3 A. Mike was not good at managing</p> <p>4 stress, which in investment banking we live in</p> <p>5 a very stressful environment. So it -- as a</p> <p>6 manager a lot of it he didn't handle stress</p> <p>7 well with junior staff and he didn't handle</p> <p>8 stress well with compatriots and senior staff.</p> <p>9 So that was frankly the biggest challenge.</p> <p>10 Q. I know some of that is in your</p> <p>11 affidavit, which I will ask you about in a</p> <p>12 little bit.</p> <p>13 Any other weaknesses that you</p> <p>14 point to for Mr. Koessel?</p> <p>15 A. Well, it is hand in hand. He was</p> <p>16 very volatile. You know, a lot of my</p> <p>17 management time, if you will, was frequently</p> <p>18 the junior staff would complain about</p> <p>19 treatment or the way it worked, administered.</p> <p>20 Enough said.</p> <p>21 Q. And then Amy Bartoletti, she was</p> <p>22 hired into the group when you were there?</p> <p>23 A. Yes.</p> <p>24 Q. Did you know Ms. Bartoletti before</p> <p>25 she was hired?</p>
<p style="text-align: right;">Page 86</p> <p>1 N. G. FLUEHR</p> <p>2 A. He was very good at numbers. He</p> <p>3 was good at generating ideas. He was</p> <p>4 personable.</p> <p>5 Q. When you say he was good at</p> <p>6 numbers, the technical side of the business?</p> <p>7 A. Correct.</p> <p>8 Q. When you say he was good at</p> <p>9 generating ideas, what do you mean by that?</p> <p>10 A. Part of how we display or get our</p> <p>11 clients to pick Citi versus JP, versus Goldman</p> <p>12 Sachs is by appealing to the clients with</p> <p>13 unique ideas or better ideas that our</p> <p>14 competitors have come up with. So part of as</p> <p>15 a manager, I encouraged everybody in my group</p> <p>16 to look to generate new ways to do things that</p> <p>17 we could then present to clients.</p> <p>18 It is basically an idea, you know,</p> <p>19 you get hired on the basis of your ideas and</p> <p>20 this is one of the criteria and an important</p> <p>21 criteria. So it was having Mike in that role</p> <p>22 was -- that was a role for everybody in the</p> <p>23 group, but that was one of the roles that Mike</p> <p>24 was very good at.</p> <p>25 Q. What were Mr. Koessel's</p>	<p style="text-align: right;">Page 88</p> <p>1 N. G. FLUEHR</p> <p>2 A. I believe I was part of the</p> <p>3 interview team when she was hired as an</p> <p>4 analyst.</p> <p>5 Q. Were you responsible for promoting</p> <p>6 Ms. Bartoletti?</p> <p>7 A. Yes. I mean, not when she was a</p> <p>8 -- when I was a junior member of the group,</p> <p>9 but as group head, that was part of my</p> <p>10 responsibility.</p> <p>11 Q. I am sorry. Were you done, I</p> <p>12 didn't mean to step on you.</p> <p>13 A. Yes.</p> <p>14 Q. Did you promote Ms. Bartoletti to</p> <p>15 director?</p> <p>16 A. Probably. I don't honestly</p> <p>17 recall.</p> <p>18 Q. What were Ms. Bartoletti's</p> <p>19 strengths as a banker within the housing</p> <p>20 group?</p> <p>21 A. She too was very good with math.</p> <p>22 She was very good with clients. She was able</p> <p>23 to handle stress very well. She had fantastic</p> <p>24 attention to detail. She was very reliable</p> <p>25 and very smart.</p>

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<p style="text-align: right;">Page 89</p> <p>1 N. G. FLUEHR</p> <p>2 Q. You mentioned attention to detail</p> <p>3 and you mentioned that with someone else</p> <p>4 earlier. What do you mean by that in the</p> <p>5 context of the work in housing?</p> <p>6 A. It is critical for me as a manager</p> <p>7 that everything that we send out be absolutely</p> <p>8 correct, be it no mistakes in the numbers or</p> <p>9 no typos in a letter or, you know, misphrases</p> <p>10 in an RFP. So someone who would go that extra</p> <p>11 mile to read the letter for the 20th time to</p> <p>12 make sure that there wasn't a typo in it was</p> <p>13 very valuable.</p> <p>14 Q. What were Ms. Bartoletti's</p> <p>15 weaknesses?</p> <p>16 A. I honestly felt that she was an</p> <p>17 exemplary employee. It is hard to come up</p> <p>18 with -- I don't know. I couldn't really say</p> <p>19 hey, this is a weakness. There aren't -- she</p> <p>20 had to sleep.</p> <p>21 Q. How many years did you manage her?</p> <p>22 A. Did I manage her or did we work</p> <p>23 together?</p> <p>24 Q. Did you manage her.</p> <p>25 A. Well, I mean, management is again</p>	<p style="text-align: right;">Page 91</p> <p>1 N. G. FLUEHR</p> <p>2 A. No.</p> <p>3 Q. Do you recall that when you were</p> <p>4 at Citigroup in the public finance group you</p> <p>5 had an offer to go to Morgan Stanley?</p> <p>6 A. I do.</p> <p>7 Q. I will refer to it as a bid away?</p> <p>8 Do you recall that?</p> <p>9 A. I do.</p> <p>10 Q. And was that in 2004?</p> <p>11 A. I don't recall, but that sounds</p> <p>12 reasonable.</p> <p>13 Q. Was Ms. Bartoletti also at the</p> <p>14 same time offered a position with Morgan</p> <p>15 Stanley?</p> <p>16 A. She was.</p> <p>17 Q. How did that come about?</p> <p>18 A. I have a good friend who works at</p> <p>19 Morgan Stanley and who called me and asked me</p> <p>20 if I would be interested in interviewing for a</p> <p>21 job. I told him no. He said would you please</p> <p>22 just do me a favor and have breakfast with the</p> <p>23 head of the public finance department at</p> <p>24 Morgan Stanley, which I said I would do. And</p> <p>25 which I did. And those post that breakfast,</p>
<p style="text-align: right;">Page 90</p> <p>1 N. G. FLUEHR</p> <p>2 as a vice president, you help manage the</p> <p>3 analysts as a director, you help manage the</p> <p>4 junior staff. And so I was probably a vice</p> <p>5 president when she was hired, so technically I</p> <p>6 probably help to manage her ever since she was</p> <p>7 hired by the firm. And again, I don't know</p> <p>8 exactly when she joined. I would say she</p> <p>9 probably was there 19 years or 18 years.</p> <p>10 Q. And from 2005 until June of 2008,</p> <p>11 the time period that you were the sole head of</p> <p>12 the group you were managing; is that correct?</p> <p>13 A. Correct.</p> <p>14 Q. And in her performance as a</p> <p>15 director through that period of time through</p> <p>16 managing her you can't identify a weakness of</p> <p>17 hers?</p> <p>18 A. She could have produced more</p> <p>19 business. Maybe -- again, it is very hard to</p> <p>20 say. That is -- we could always produce more</p> <p>21 business, so I am sure I would have -- is it a</p> <p>22 weakness, it is hard to characterize that as a</p> <p>23 weakness? Wall Street always wants more.</p> <p>24 Yes, she could have produced more.</p> <p>25 Q. Anything else?</p>	<p style="text-align: right;">Page 92</p> <p>1 N. G. FLUEHR</p> <p>2 you know, through many more ensuing</p> <p>3 discussions, I was offered that position, as</p> <p>4 was Amy.</p> <p>5 Q. Do you know how Ms. Bartoletti</p> <p>6 became part of those discussions?</p> <p>7 A. I am confident that I said that</p> <p>8 one person does not a housing group make, and</p> <p>9 that to be credible on Wall Street and to</p> <p>10 produce a viable business we would need more</p> <p>11 people. And I am sure I said that if I were</p> <p>12 to join, I know another person who does an</p> <p>13 outstanding job and would be an outstanding</p> <p>14 addition to the housing group there.</p> <p>15 Q. You got an offer to join Morgan</p> <p>16 Stanley and Ms. Bartoletti did as well,</p> <p>17 correct?</p> <p>18 A. Correct.</p> <p>19 Q. And then what happened?</p> <p>20 A. I went to talk to Frank Chin to</p> <p>21 tell him that I would apologize, that I was</p> <p>22 leaving the public finance department and that</p> <p>23 I didn't solicit this. I had no interest in</p> <p>24 leaving, but as I told the person at Morgan</p> <p>25 Stanley, I said the only reason that I ever</p>

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<p style="text-align: right;">Page 93</p> <p>1 N. G. FLUEHR</p> <p>2 would ever leave is if he said I will double</p> <p>3 your compensation, and he said I will double</p> <p>4 your compensation. So...</p> <p>5 Q. What happened next? What was</p> <p>6 Mr. Chin's reaction?</p> <p>7 A. He told me he understood and that</p> <p>8 he needed a half an hour and he'd come back to</p> <p>9 me.</p> <p>10 Q. What happened next?</p> <p>11 A. Citigroup agreed to match the</p> <p>12 Morgan Stanley offer.</p> <p>13 Q. When you went to talk to Mr. Chin</p> <p>14 to inform him that you were leaving, did you</p> <p>15 already have a written offer letter from</p> <p>16 Morgan Stanley?</p> <p>17 A. I did.</p> <p>18 Q. Do you still have that offer</p> <p>19 letter?</p> <p>20 A. Probably.</p> <p>21 Q. Who did you speak with at Morgan</p> <p>22 Stanley, you mentioned the title of the person</p> <p>23 or persons.</p> <p>24 A. Andrew Garvey.</p> <p>25 Q. That was the head of the group?</p>	<p style="text-align: right;">Page 95</p> <p>1 N. G. FLUEHR</p> <p>2 Q. Do you know what they offered</p> <p>3 Ms. Bartoletti?</p> <p>4 A. In terms of salary and</p> <p>5 compensation?</p> <p>6 Q. Yes.</p> <p>7 A. I don't recall, no.</p> <p>8 Q. Did you get a writing from</p> <p>9 Citigroup matching the offer?</p> <p>10 A. I did not, that I recall. I mean,</p> <p>11 I again trusted Frank Chin and worked with him</p> <p>12 for years. So...</p> <p>13 Q. Did Citigroup honor their</p> <p>14 commitment to you?</p> <p>15 A. They did.</p> <p>16 Q. The public finance group, we</p> <p>17 referred to this earlier at Citigroup, went</p> <p>18 through a series of reductions in force in</p> <p>19 late '07 and through '08; is that right?</p> <p>20 A. There were frequent reductions in</p> <p>21 force over the course of my career. The</p> <p>22 largest sort of total layoff in any year would</p> <p>23 have been the '08 time period as I recall.</p> <p>24 Q. Do you remember a layoff occurring</p> <p>25 in December '07, January of '08, that time</p>
<p style="text-align: right;">Page 94</p> <p>1 N. G. FLUEHR</p> <p>2 A. Public finance group, yes.</p> <p>3 Q. Did Citigroup agree to match that</p> <p>4 compensation level that you had been offered</p> <p>5 by Morgan Stanley for any certain period of</p> <p>6 time?</p> <p>7 A. Well, the Morgan Stanley offer was</p> <p>8 a two-year guarantee. And Citigroup told me</p> <p>9 they would match the Morgan Stanley offer.</p> <p>10 Q. Do you know whether Ms. Bartoletti</p> <p>11 also had a written offer from Morgan Stanley?</p> <p>12 A. I believe she did.</p> <p>13 Q. Do you know whether she also had a</p> <p>14 two-year guarantee?</p> <p>15 A. I believe she did.</p> <p>16 Q. And do you know whether Citigroup</p> <p>17 similarly offered to match the Morgan Stanley</p> <p>18 offer?</p> <p>19 A. Yes.</p> <p>20 Q. You said Morgan Stanley had</p> <p>21 offered to double your compensation, right?</p> <p>22 A. Correct.</p> <p>23 Q. Did they offer to double</p> <p>24 Ms. Bartoletti's compensation?</p> <p>25 A. They did not.</p>	<p style="text-align: right;">Page 96</p> <p>1 N. G. FLUEHR</p> <p>2 period?</p> <p>3 A. Yes, vaguely.</p> <p>4 Q. Did you participate in that layoff</p> <p>5 process?</p> <p>6 A. Probably.</p> <p>7 Q. You were the head of the housing</p> <p>8 group at that time?</p> <p>9 A. Correct. I mean, I remember I had</p> <p>10 to lay off one individual. I am not sure if</p> <p>11 you were to ask me, I would say it was March.</p> <p>12 But it could have well been December/January.</p> <p>13 Q. Do you remember Corey Hoepfner?</p> <p>14 A. Yes.</p> <p>15 Q. Is that the person that you are</p> <p>16 thinking of?</p> <p>17 A. Yes.</p> <p>18 Q. Do you remember a woman named Amy</p> <p>19 Wyan in the housing group?</p> <p>20 A. No.</p> <p>21 Q. Do you recall what was your role</p> <p>22 in that reduction in force?</p> <p>23 A. I had to deliver the news. I was</p> <p>24 consulted when it was contemplated.</p> <p>25 Q. Who consulted you?</p>

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1 N. G. FLUEHR
2 A. No.
3 MR. MINTZER: When you go to
4 another convenient point, it doesn't
5 have to be right this second, but I
6 think we should break now.
7 Q. Did you in that March reduction,
8 do you remember consulting with Mr. Chin or
9 Mr. Livolsi or anybody else about Parimal?
10 A. No.
11 (Time noted: 3:08 p.m.)
12 AFTERNOON SESSION
13 September 28, 2012
14 3:38 P.M.
15 N-I-C-H-O-L-A-S G. F-L-U-E-H-R, resumed and
16 testified further as follows:
17 EXAMINATION (Continued)
18 BY MR. TURNBULL:
19 MR. MINTZER: The witness has
20 something that he recalls that he wants
21 to correct. Not a major one.
22 Mr. Fluehr.
23 A. What was your question with
24 respect to Amy Yang?
25 Q. One of the questions was if you

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1 N. G. FLUEHR
2 recalled her being a member of the housing
3 group.
4 A. I do.
5 Q. Do you recall that she was let go
6 in a reduction in force?
7 A. I do.
8 Q. Were you part of that decision?
9 A. No doubt. Though I don't recall
10 the details of it.
11 Q. Do you recall anything about why
12 she was selected for the layoff?
13 A. Not specifically, no.
14 Q. How about generally?
15 A. Generally, she was a less stellar
16 performer than her peers.
17 Q. Were you part of the decision to
18 let her go?
19 MR. MINTZER: Asked and answered.
20 A. Yes.
21 Q. Did you consider her gender in
22 making that decision?
23 A. I did not.
24 Q. The reduction in force that
25 occurred in June of 2008 that led to your

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1 N. G. FLUEHR
2 termination, do you know whether other people
3 from the housing group were let go as part of
4 that reduction?
5 A. I don't recall any.
6 Q. Do you know or do you recall an
7 analyst named Henry Chen?
8 A. Yes.
9 Q. Do you know whether he was let go
10 in the June 2008 RIF?
11 A. I don't recall.
12 Q. I take it you don't recall having
13 any input into any decision as to whether
14 Mr. Chen should be retained or let go?
15 A. Correct.
16 Q. Do you recall ever putting Chia
17 Siu on a reduction in force list?
18 A. I don't actually. Put on a
19 promotion list, so...
20 Q. Do you know whether she was on a
21 reduction in force list in 2008?
22 A. I don't.
23 Q. Do you know why you were selected
24 for lay offer in June of 2008?
25 MR. MINTZER: The question is do

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1 N. G. FLUEHR
2 you know.
3 A. No.
4 Q. Did anyone tell you why you were
5 selected for layoff?
6 A. Just that it was a reduction in
7 force.
8 Q. Do you know who made the decision
9 to let you go?
10 A. No.
11 Q. Do you know what factors were
12 considered in letting you go?
13 A. No.
14 Q. I think you testified earlier that
15 on the day you were informed, that was the
16 last day that you were in the office, correct?
17 A. Last day I was in the office as an
18 employee. I since returned to the office.
19 MR. MINTZER: Off the record.
20 (Discussion off the record.)
21 Q. After June of 2008, did you speak
22 with anybody at Citigroup about their housing
23 business?
24 A. I had numerous calls from
25 virtually every member of my group looking to



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<p style="text-align: right;">Page 109</p> <p>1 N. G. FLUEHR</p> <p>2 committed to the business, and that further</p> <p>3 reductions were not foreseeable.</p> <p>4 And she said she worked doubly</p> <p>5 hard to retain as many clients as they could,</p> <p>6 post my departure. And felt that she had been</p> <p>7 lied to with respect to their commitment to</p> <p>8 the business.</p> <p>9 Q. And that's why she told you she</p> <p>10 was going to sue?</p> <p>11 MR. MINTZER: Objection to the</p> <p>12 form. You can answer.</p> <p>13 A. That's what she told me.</p> <p>14 Q. Who did she say made those</p> <p>15 representations?</p> <p>16 A. She didn't tell me.</p> <p>17 Q. When Ms. Bartoletti told you that</p> <p>18 she was going to sue, what was your response?</p> <p>19 A. I felt sympathetic to her cause as</p> <p>20 I had felt she was by far the most talented</p> <p>21 employee in the group. I couldn't really</p> <p>22 explain why she would have been one of the</p> <p>23 ones selected. It certainly wouldn't have</p> <p>24 been my decision, had I been the manager.</p> <p>25 And I told her that if she did</p>	<p style="text-align: right;">Page 111</p> <p>1 N. G. FLUEHR</p> <p>2 department, they would all bare out that in no</p> <p>3 way would that decision had been made if you</p> <p>4 were looking at the paper trail is my feeling.</p> <p>5 Q. That's what you told her?</p> <p>6 A. You know, I don't recollect the</p> <p>7 exact nature of the conversation, but I --</p> <p>8 yes, I felt that that was -- I definitely --</p> <p>9 the general gist that I felt it was a crazy</p> <p>10 result to have those three terminated was not</p> <p>11 correct.</p> <p>12 Q. In the earlier rounds of the</p> <p>13 reductions in force that we talked about, to</p> <p>14 the extent you participated in them, did you</p> <p>15 see gender play a role in any of those earlier</p> <p>16 decisions?</p> <p>17 A. No.</p> <p>18 Q. Did you tell Ms. Bartoletti that?</p> <p>19 A. No.</p> <p>20 Q. The affidavit, did you provide</p> <p>21 that voluntarily?</p> <p>22 A. I did.</p> <p>23 Q. How did it get prepared?</p> <p>24 A. Mr. Wigdor's firm prepared the</p> <p>25 affidavit after interviewing me.</p>
<p style="text-align: right;">Page 110</p> <p>1 N. G. FLUEHR</p> <p>2 indeed choose to move forward on a legal</p> <p>3 basis, that the person I knew in my</p> <p>4 neighborhood was a very good employment</p> <p>5 attorney who I would put her in touch with.</p> <p>6 Q. And that was Mr. Wigdor?</p> <p>7 A. It was.</p> <p>8 Q. When Ms. Bartoletti called you and</p> <p>9 told you she felt maligned and that</p> <p>10 misrepresentations had been made that were not</p> <p>11 followed through on, did she tell you that she</p> <p>12 felt that she had been terminated because she</p> <p>13 is a woman?</p> <p>14 A. She did mention that it was she</p> <p>15 felt that the fact that it was herself, Ping</p> <p>16 and Chia, who were RIF'ed and the fact that</p> <p>17 Mike Koessel and Ray High were kept seemed to</p> <p>18 -- she felt that was, yes, gender biased.</p> <p>19 Q. What did you say in response?</p> <p>20 A. I said I can't explain it Amy,</p> <p>21 either. Chia had exemplary reviews, Ping is</p> <p>22 an exemplary employee. If anything, you know,</p> <p>23 of our -- with respect to our reviews and with</p> <p>24 respect to even the 360 reviews, which were</p> <p>25 all funneled through the human resources</p>	<p style="text-align: right;">Page 112</p> <p>1 N. G. FLUEHR</p> <p>2 Q. So let me just take it step by</p> <p>3 step. I take it someone contacted you to ask</p> <p>4 if you would be willing to give an affidavit?</p> <p>5 A. Correct.</p> <p>6 Q. Who, who contacted you?</p> <p>7 A. It was either Doug or his</p> <p>8 associate Adam, I don't recall. Probably</p> <p>9 Doug.</p> <p>10 Q. And after that phone call, did you</p> <p>11 go into Mr. Wigdor's offices?</p> <p>12 A. Yes.</p> <p>13 Q. When was that?</p> <p>14 A. It looks like it was in 2010, in</p> <p>15 July 2010.</p> <p>16 Q. Do you think it was the same month</p> <p>17 that you signed it? You signed it on the</p> <p>18 30th.</p> <p>19 A. Probably -- yes. That would be my</p> <p>20 guess. Again, as I recall, I went in, they</p> <p>21 transcribed it, and then I came back and</p> <p>22 basically they notarized it and I signed it.</p> <p>23 Q. You went into their offices,</p> <p>24 correct?</p> <p>25 A. Correct.</p>